

Docket No.: 50108-026

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Customer Number: 20277  
Michael A. CENTORE III : Confirmation Number: 5659  
Application No.: 09/919,856 : Group Art Unit: 2624  
Filed: August 02, 2001 : Allowed: February 24, 2005  
Examiner: Bing Q. BUI

For: METHODS AND APPARATUS FOR UTILIZING RADIO FREQUENCY SPECTRUM  
SIMULTANEOUSLY AND CONCURRENTLY IN THE PRESENCE OF CO-  
CHANNEL AND/OR ADJACENT CHANNEL TELEVISION SIGNALS

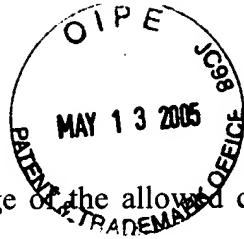
COMMENTS RESPONSIVE TO STATEMENT OF  
REASONS FOR ALLOWANCE  
UNDER 37 C.F.R. § 104(e)

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The February 24, 2005 Notice of Allowability regarding the above-identified application included a Statement of Reasons for Allowance. Entry of that Statement into the record should not be construed as any agreement with or acquiescence by Applicants in the stated reasoning.

The statement gives a single reason with regard to all of the independent claims, and seems to require a combination of 'reasons' attributed to different groups of claims by alleging that the art does not disclose "alone or in combination, the recited radio-frequency transmitting apparatus ... as set forth in claims 1, 13 and 26; a system ... as set forth in claims 34, 40, 42 and 48; and a system ... as set forth in claims 50 and 54-55." The statement should not be viewed as a cumulative requirement. Also, the wording of the statement does not particularly track the language of any of the allowed claims.



The language of the allowed claims is already of record in the case and is adequately clear. It is submitted that it is the clear language of each of the allowed claims that controls patentability, and the phrasing in the Statement should not be used to construe the claims or viewed as any type of estoppel with regard to claim scope, particularly to the extent that the Statement may differ from the proper interpretation of the actual language of the allowed claims. Also, the claims differ as to language and scope, and it is submitted that each claim is independently patentable in its own right, not just for one general/combined reason as apparently suggested by the Statement.

Furthermore, the claims have been allowed in the first action, without any rejection or amendment in this case. It is respectfully submitted that, under these circumstances, the allowed claims should be entitled the broadest reasonable interpretation and broadest range of equivalents that are appropriate in light of the language of the claims and the supporting disclosure, without reference to the Statement of Reasons for Allowance.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Keith E. George  
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**Please recognize our Customer No. 20277  
as our correspondence address.**

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**Date: May 13, 2005**